

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Station WCMJ(AM))	File No. EB-00-DT-779
)	
Fifth Avenue Broadcasting Co., Inc.)	NAL/Acct. No. 200132360003
Huntington, West Virginia)	FRN 0004-2464-43

ORDER

Adopted: February 14, 2002**Released: February 19, 2002**

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau and Fifth Avenue Broadcasting Co., Inc. ("Fifth Avenue"). The Consent Decree terminates the Enforcement Bureau's forfeiture proceeding against Fifth Avenue. Fifth Avenue, licensee of WCMJ(AM), apparently violated Sections 73.1225(d)(1) (failure to maintain copy of the most recent antenna impedance measurement); 73.1350(a) (failure to operate according to the terms of the station authorization); 73.1690(b)(2) (failure to file a construction permit); 73.3526(e)(1) (failure to maintain copy of current authorization in public inspection file); and 73.3526(e)(12) (failure to maintain issues/programs lists in the public inspection file) of the Commission's Rules.¹

2. The Consent Decree provides, that, among other things, Fifth Avenue will implement a Compliance Plan to ensure its future compliance with the Commission's Rules and will make a \$10,000 voluntary contribution to the United States Treasury.²

3. After having reviewed the record and the Consent Decree, including the incorporated Compliance Plan, we believe that the public interest will be served by adopting the Consent Decree and terminating the Enforcement Bureau's forfeiture proceeding against Fifth Avenue.

4. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i), 4(j), and 503(b) of the Communications Act of 1934, as amended,³ and Section 0.111 and 0.311 of the Commission's Rules,⁴ the Consent Decree attached to this Order, **IS ADOPTED**.

¹ 47 C.F.R. §§ 73.1225(d)(1), 73.1350(a), 73.1690(b)(2), 73.3526(e)(1), 73.3526(e)(12).

² Payment may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. 200132360003, and FRN 0004-2464-43 referenced above.

³ 47 U.S.C. §§ 154(i), 154(j), 503(b).

⁴ 47 C.F.R. §§ 0.111, 0.311.

5. **IT IS FURTHER ORDERED** that the Enforcement Bureau's forfeiture proceeding against Fifth Avenue **IS TERMINATED**.

6. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by Certified Mail Return Receipt Requested to Susan Marshall, Esq., and Vincent Curtis, Esq., Fletcher, Heald & Hildreth, P.L.C., 11th Floor, 1300 North 17th Street, Arlington, Virginia, 22209, and to Fifth Avenue Broadcasting Co., Inc., 401 11th Street, Suite 200, Huntington, West Virginia, 25701.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau